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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,996	11/26/2003	Ricky Ah-Man Woo	7768MD	9564

27752 7590 04/20/2006

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
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CINCINNATI, OH 45224

EXAMINER
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HARDEE, JOHN R

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/722,996	<b>Applicant(s)</b> WOO ET AL.	
	<b>Examiner</b> John R. Hardee	<b>Art Unit</b> 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 3-18 and 30-33 is/are pending in the application.  
     4a) Of the above claim(s) 6-10 and 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-5, 11, 15-18 and 30-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 23, 2006 has been entered.

### ***Election/Restrictions***

2. Applicant is reminded that a restriction requirement remains in effect. Claims 6-10 and 12-14 remain withdrawn from consideration by the examiner as being drawn to species non-elected with traverse, the election requirement having been made final in a previous office action.

### ***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 3-5, 11, 15-18 and 30-33 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Trinh et al., US 5,714,137, in view of Behan et al., US 5,676,163 and Wilsch-Irrgang et al., US 5,861,371. The Trinh reference discloses aqueous, odor absorbing compositions for use on inanimate surfaces. The compositions

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comprise about 0.1% to about 5% by weight of solubilized, uncomplexed cyclodextrin. The compositions are essentially free of any material which would stain or soil fabric, and they have a pH of greater than about 3 (abstract). Suitable cyclodextrins, including combinations of cyclodextrins, are disclosed at col. 5, lines 8+. Cavities should remain uncomplexed (col. 4, lines 8-10, col. 11, lines 59-60). This can be accomplished through the use of aqueous solvents and appropriate choice of perfume materials. Perfume is present at up to about 0.5% (col. 11, lines 40+). Most preferably, at least about 75% of the perfume ingredients should have a Clog P of about 3 or smaller (col. 16, lines 3+), and, most preferably at least about 75% of the perfume materials should come from the table beginning at the middle of col. 12. Note that P. T. buccinal, cymal and hexyl cinnamic aldehyde are among these materials. Materials with a Clog P of this magnitude are relatively hydrophobic, having a thousand-fold preference for octanol over water. Note the disclosure at col. 12, lines 4+, that most preferably at least about 75% by weight of the perfume materials will have molecular weights of about 130 to about 290. Polyacrylic acid or polyacrylate may be added, as may soluble zinc salts at about 0.1% to about 10% (col. 17, lines 27+). Suitable surfactants are disclosed at col. 20, lines 13+. Water soluble cationic polyamines may be added as well. This reference differs from the claimed subject matter in that it does not specifically disclose use of a class I or II aldehyde in the recited amounts, or of an odor blocker in the recited amounts.

Behan et al. teaches at col. 2, line 51 that hexyl cinnamic aldehyde, 2-methyl-3-(4'-isopropylphenyl)propanal, also known as cymal, and 2-methyl-3-(4'-tert-

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butylphenyl)propanal, also known as P. T. buccinal, are class II aldehydes, and Wilsch-Irrgang et al. teaches at col. 3, lines 7+ that terpenes, including alpha-terpineol, are useful deodorizers in cleaning compositions. Note also the disclosure in applicant's specification at p. 16, lines 15+ that the odor blockers and class I and II aldehydes contemplated for use in these compositions are those disclosed in the cited secondary references.

It would have been obvious at the time the invention was made to make such a composition, because this reference teaches that all of the ingredients recited by applicants are suitable for inclusion in an odor absorbing composition. The person of ordinary skill in the surfactant art would expect the recited compositions to have properties similar to those compositions which are exemplified, absent a showing to the contrary.

In the case where the claimed ranges overlap or lie inside ranges disclosed by the prior art, a *prima facie* case of obviousness exists. *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed Cir. 1990). Regarding packaging with instructions, both of these are obvious expedients, and the specific content of the instructions does not add patentable weight.

### ***Response to Arguments***

5. Applicant's arguments filed December 16, 2005 have been fully considered but they are not persuasive. Applicant argues that the Trinh reference teaches away from perfume ingredients with a ClogP of greater than 3. This is not persuasive because the

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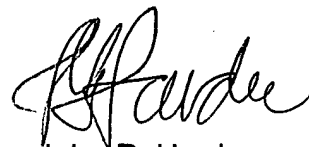
reference teaches that, most preferably, the perfume compositions comprise at least about 75% of materials with a ClogP of 3 or less. Accordingly, the compositions, in their most preferable embodiment, may comprise up to about 25% of perfume ingredients with a ClogP of greater than 3, and in less preferred embodiments may comprise even more. See col. 16, lines 3+. Applicant further argues that the perfumes of Trinh are not added in the form of an emulsion or a dispersion. This is not persuasive because applicant's product-by-process language drawn to emulsions and dispersions is not afforded patentable weight in the absence of evidence that such a process affords a patentably distinct process. Finally, applicant argues that the secondary references are drawn to different intended uses from that of Trinh. This is not persuasive because these references are relied upon solely for their disclosure that materials disclosed in the primary reference, Trinh, are class I and class II aldehydes. Aside from these disclosures, which describe inherent properties of materials disclosed in the primary reference, the Trinh reference alone is adequate to make the claims obvious.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (571) 272-1318. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Mr. Douglas McGinty, may be reached at (571) 272-1029.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8100.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "J. Hardee", is positioned above the printed name.

John R. Hardee

Primary Examiner

April 17, 2006